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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TRAFFICSCHOOL.COM, INC., a
California Corporation; DRIVERS ED
13 DIRECT, LLC, a California limited
liability company,

14 Plaintiffs,

15 v.

16 EDRIVER, INC., ONLINE GURU,
INC., FIND MY SPECIALIST, INC.,
17 and SERIOUSNET, INC., California
corporations, RAVI K. LAHOTI, an
18 individual; RAJ LAHOTI, an individual;
DOES 1 through 10,

19 Defendants.

Case No: CV 06-7561 PA (CWx)

**DEFENDANTS' EVIDENTIARY
OBJECTIONS TO AND MOTION
TO STRIKE PORTIONS OF THE
SUPPLEMENTAL DECLARATION
OF MINA I. HAMILTON
SUBMITTED IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEY'S FEES AND COSTS**

Date: December 5, 2011
Time: 1:30 p.m.
Ct: 15
Judge: Honorable Percy Anderson

Complaint Filed: November 28, 2006

22 Defendants Edriver, Inc., Online Guru, Inc., Find My Specialist, Inc.,
23 Seriousnet, Inc., Ravi K. Lahoti, and Raj Lahoti ("Defendants") hereby object to
24 and move to strike portions of the declaration of Mina I. Hamilton (Doc. No. 324-
25 5) including certain exhibits thereto filed by plaintiffs Trafficschool.com, Inc. and
26 Drivers Ed Direct, LLC ("Plaintiffs") in support of Plaintiffs' Motion for
27 Attorney's Fees and Costs as set forth below.
28

DEFENDANTS' OBJECTIONS TO SUPPLEMENTAL HAMILTON DECLARATION FILED ISO PLAINTIFFS'
MOTION FOR ATTORNEY'S FEES AND COSTS
CASE NO. CV 06-7561 PA (CWx)

1 1. Page 2, Lines 9-18: “I have reviewed the Declaration of Kathryn
 2 M.S. Catherwood in Support of Defendants’ Comments to Joint Statements on
 3 Fees and Costs. In her declaration, she states that ‘[a]lthough Attorney Tammy
 4 Boggs of our office requested via e-mail the that Attorney Hamilton provide us
 5 with the most recent version of the excel spreadsheet. This request was declined.”
 6 This is not an accurate statement. Defendants have had in their possession for
 7 weeks, prior to the November 3, 2011 filing of Plaintiffs’ Motion for Attorneys’
 8 Fees and Costs, the Excel spreadsheets specifying the hours for which
 9 compensation will and will not be sought (including write-offs). Attached hereto
 10 as EXHIBIT N is a true and correct copy of an email string dated November 7,
 11 2011 between me and Defendants’ counsel, Ms. Tammy Boggs.”

12 **Objection**: Exhibit N, which consists of an email exchange, confirms
 13 that declarant, Mina I. Hamilton, in fact did not provide the most recent version of
 14 the spreadsheet in Excel format. Specifically the email dated November 7, 2011
 15 states: “Tammy, (and Andy et al.) You did get the final submitted spreadsheets.
 16 We e-filed the Joint spreadsheets in PDF as required by the ECF system. The filed
 17 versions are simply the Excel spreadsheet that you sent us with your omnibus
 18 statement plus or responses to that omnibus statement in the appropriate column.
 19 Noting else was changed. I still do not know why you need that filing in the native
 20 Excel form now, especially in light of the new order of today’s date. . .” [emphasis
 21 added]. Ms. Hamilton’s statements lack foundation, are irrelevant and imprecise
 22 and are not the best evidence and contradict her email that confirms she did not
 23 send the most recent version in Excel and in fact questioned Defendants’ request
 24 rather than simply providing it. Ms. Hamilton’s statement that Ms. Catherwood’s
 25 statement was “not an accurate statement” should be stricken. Fed. R. Evid. 401,
 26 403, 602, 701.

27 Sustain _____ Overrule _____

2. Page 2, Lines 19-26: “I have reviewed the Declaration of Raj Lahoti in Support of Defendants’ Opposition to Plaintiffs’ Motion for Attorney’s Fees and Costs as well as all the exhibits thereto. Attached as ‘exhibit 2’ to Mr. Lahoti’s declaration is a purported CBS news article regarding the California DMV. I note that in the “comments” portion of ‘exhibit 2’ (page 17 of 23), the very first commenter tells the reader to “simply go to the DMV.org website. . .” The entire article is about the official DMV and their issues and the very first comment from “Jacob” references to Defendants’ website, DMV.org.”

Objection: Ms. Hamilton’s statement is conclusory and lacks foundation, is inadmissible hearsay (testimony about what “Jacob” said), is irrelevant and imprecise, expresses improper opinion and innuendo, and is not the best evidence. Ms. Hamilton’s conclusion that the reference to DMV.org in “Jacob’s” comment to the article somehow evidences ongoing confusion specifically lacks foundation. This individual’s comment just as readily supports that Defendants’ website is a source of information, and therefore, a suggestion to go to the Website to see what is going on, is not surprising. As noted by the Ninth Circuit, DMV.org contains useful, fully protected First Amendment content. Ms. Hamilton’s negative spin (and argumentation) contained in a purported factual declaration is improper and must be stricken. Fed R. Evid. 401, 403, 602, 701.

Sustain _____ Overrule _____

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1 3. Page 3, Lines 1-2, Exhibit O: “Attached hereto as Exhibit O are true
2 and correct copies of a screen shots of DMV.org’s Facebook page showing
3 consumer comments.”

4 **Objection:** Exhibit O, which allegedly consists of the DMV.org
5 Facebook page, lacks foundation, is irrelevant and imprecise as to time, expresses
6 improper opinion, and is not the best evidence. Exhibit O should be stricken. Fed.
7 R. Evid. 401, 403, 602, 701.

8 Sustain _____ Overrule _____

9 Defendants respectfully request that the Court sustain the above objections
10 and strike the corresponding evidence.

11
12 **FOLEY & LARDNER LLP**

Dated: November 28, 2011

13
14 By: /s/ Kathryn M.S. Catherwood
15 KATHRYN M.S. CATHERWOOD
16 Attorneys for Defendants
17 EDRIVER, INC., ONLINE GURU
18 INC., FIND MY SPECIALIST, INC.,
19 SERIOUSNET, INC., RAVI K.
20 LAHOTI, RAJ LAHOTI
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CERTIFICATE OF SERVICE

I hereby certify on this 28th day of November, 2011 that a copy of the foregoing was filed electronically through the Court's CM/ECF system, with notice of case activity automatically generated and sent electronically to all parties.

FOLEY & LARDNER LLP

By: /s/ Kathryn M.S. Catherwood
Eileen R. Ridley
Andrew B. Serwin
Kathryn M.S. Catherwood
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EDriver, Inc., Online Guru Inc., Find My
Specialist, Inc., Seriousnet, Inc., Ravi K.
Lahoti, Raj Lahoti